

Appl. No. : 08/765,837  
Filed : September 7, 1999

### REMARKS

Claims 31-36, 39, 45 and 50 have been amended. Support for the amendments can be found in the specification as filed, for example, on page 17, lines 23-24, on page 21 lines 10-14. No new matter has been introduced with the amendments. New Claim 55 has been added. Support for the new claim can be found in Claim 45 as filed on June 24, 2003. As a result, claims 31-36, 39 and 44-55 are pending. The following addresses the substance of the Office Action.

#### **Claim Rejection under 35 U.S.C. §112**

The Examiner has rejected claims 32, 33, 34, 36, 39 and 44 under 35 U.S.C. §112, second paragraph, for being indefinite. More specifically, the Examiner asserted that Claims 32, 33 and 39 lack antecedent basis for "the antigenic polypeptide of Claim 31"; and Claim 36 lacks antecedent basis for "the polypeptide of Claim 31". The Applicants have now amended Claims 32, 33, 36 and 39 to recite "the isolated antigenic fragment of Claim 31" which is supported by currently amended Claim 31. During the interview of Feb. 2, 2004, the Examiner indicated that this amendment would render the rejection moot. Accordingly, Applicants respectfully request that the rejection be withdrawn.

#### **Claim rejection under 35 U.S.C. §102**

The Examiner has rejected Claims 45-49 under 35 U.S.C. §102(b) as being allegedly anticipated by USP 4,965,199. More specifically, the Examiner alleges that Claims 45-49 read on the disclosed Capon fragment, residues 1799-1860 and its use in a pharmaceutical composition or as a complex with BSA, because the present invention comprises at least 7 amino acid sequences of the recited amino acid fragments as long as the resulting polypeptide fragment is antigenic. During the interview of Feb. 2, 2004, the Examiner indicated that this amendment would render the rejection moot. Accordingly, Applicants respectfully request that the rejection be withdrawn.

#### **Claim objections**

The Examiner has objected to Claims 50-54 as being dependent upon a rejected claim. Claim 50 was rejected as being dependent upon a rejected claim. The Applicants have amended Claim 50 into independent form. During the interview of Feb. 2, 2004, the Examiner indicated that this amendment would render the rejection moot. Accordingly, Applicants respectfully request that the rejection be withdrawn.

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**Allowable subject matter**

The Examiner has indicated that Claim 31 is allowable. Claim 35 was indicated as allowable in the previous Office Action. Furthermore, during the interview of Feb. 2, 2004, the Examiner indicated that the amendments provided herein would overcome all of the rejections currently of record.

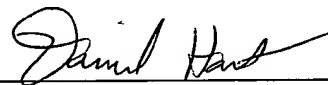
Applicants believe that all outstanding issues in this case have been resolved and that the present claims are in condition for allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is invited to contact the undersigned at the telephone number provided below in order to expedite the resolution of such issues.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: Feb. 27, 2004

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